



7020-02

## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-921; (Enforcement Proceeding)]**

**Certain Marine Sonar Imaging Devices, Including Downscan and Sidescan Devices, Products Containing the Same, and Components Thereof; Commission Determination to Grant a Joint Unopposed Motion to Terminate the Enforcement Proceeding Based on a Settlement Agreement and an Unopposed Motion to Rescind the Remedial Orders; Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to grant a joint unopposed motion to terminate the enforcement proceeding based on a settlement agreement and an unopposed motion to rescind the remedial orders.

**FOR FURTHER INFORMATION CONTACT:** Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted the original investigation on July 14, 2014, based on a complaint filed by Navico, Inc. of Tulsa, Oklahoma, and Navico Holding AS, of Egersund, Norway (collectively, “Navico”). 79 FR 40778 (July 14, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,305,840 (“the ’840 patent”), 8,300,499, and 8,605,550 (“the ’550 patent”). *Id.* The named respondents included Garmin International, Inc. and Garmin USA, Inc., each of Olathe, Kansas (collectively, “Garmin”), and Garmin (Asia) Corporation of New Taipei City, Taiwan. *Id.* The Office of Unfair Import Investigations was also named as a party. *Id.*

On December 1, 2015, the Commission found a violation of section 337 based on infringement of certain claims of the ’840 and ’550 patents. 80 FR 76040, 76040-41 (Dec. 7, 2015). The Commission issued a limited exclusion order prohibiting Garmin and Garmin (Asia) Corporation from importing certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that infringe claims 1, 5, 7, 9, 11, 16-19, 23, 32, 39-41, and 70-72 of the ’840 patent and claims 32 and 44 of the ’550 patent. *Id.* The Commission also issued cease and desist orders against Garmin and Garmin (Asia) Corporation, prohibiting the sale and distribution within the United States of articles that infringe certain claims of the ’840 and ’550 patents. *Id.* at 76041.

On August 18, 2016, the Commission issued a modified limited exclusion order. Notice (Aug. 18, 2016).

On October 17, 2016, the Commission instituted the subject enforcement proceeding based on a complaint filed by Navico, alleging that Garmin violated the cease and desist orders issued in the original investigation. 81 FR 71531, 71531-32 (Oct. 17, 2016). On May 25, 2017, the presiding administrative law judge (“ALJ”) issued an enforcement initial determination finding that Garmin violated the cease and desist orders. The ALJ also recommended imposition of a civil penalty of approximately \$37 million if the Commission found a violation of the cease and desist orders.

On June 13, 2017, the U.S. Court of Appeals for the Federal Circuit issued a decision in *Garmin International, Inc. v. International Trade Commission* (No. 16-1572), finding invalid as obvious all claims covered by the remedial orders and reversing the Commission’s final determination of a section 337 violation. On October 31, 2017, the Federal Circuit issued a mandate in accordance with its June 13, 2017 judgment.

On November 1, 2017, Garmin filed a motion to terminate the enforcement proceeding in light of the reversal of the final determination of violation in the original investigation. On November 2, 2017, Garmin filed a motion to rescind the remedial orders. On November 13, 2017, Navico and OUII filed responses to Garmin’s motion to terminate and motion to rescind the remedial orders. On November 17, 2017, Garmin filed a motion to file a reply. On November 28, 2017, Navico filed an opposition to Garmin’s motion to file a reply.

On February 14, 2018, Navico and Garmin filed a joint motion to terminate the enforcement proceeding based on a settlement agreement. Public and confidential versions of the parties’ settlement agreement are attached to the motion. The joint motion states that the settlement agreement resolves the dispute between Navico and Garmin in the enforcement proceeding and that “[t]here are no other agreements, written or oral, express or implied,

between Navico and Garmin regarding the subject matter of this proceeding.” The motion also states that “there no longer exists a basis upon which to continue this enforcement proceeding,” that “termination of this proceeding pursuant to the [a]greement poses no threat to the public interest,” and that “it is in the interest of the public and administrative economy to grant this motion.” The joint motion also requested that the Commission act on Garmin’s unopposed motion to rescind the remedial orders. On February 26, 2018, OUII filed a response, supporting the joint motion to terminate the enforcement proceeding and request to rescind the remedial orders.

The Commission has determined to grant the joint unopposed motion to terminate the enforcement proceeding based on a settlement agreement. The Commission finds that the joint motion complies with the requirements of section 210.21(b)(1) of the Commission’s Rules of Practice and Procedure (19 CFR 210.21(b)(1)) and that there are no extraordinary circumstances to prevent the requested termination. The Commission also finds that termination of the enforcement proceeding would not be contrary to the public interest. The enforcement proceeding is terminated.

The Commission has also determined to rescind the modified limited exclusion order and cease and desist orders.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 19, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2018-05816 Filed: 3/21/2018 8:45 am; Publication Date: 3/22/2018]